REMARKS/ARGUMENTS

STATUS OF CLAIMS

Claims 1, 3-8 and 10 are now pending in this application.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1, 3-8 and 10 have been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. The Examiner refers to "when the situation comparing means indicates that the current situation information does not agree with any of the stored situation information, adapting an operation procedure to be executed by the operation procedure executing means to a current situation when" in claim 1, and to "when the situation comparing means indicates that the current situation information differs from the stored situation information" in claims 7 and 8 as not being clearly presented in the specification.

The rejections are respectfully traversed.

Case law precedent has established that an analysis under 35 U.S.C. § 112 begins with a determination of whether the claims do, in fact, set out and circumscribe a particular area with a reasonable degree of precision and particularity. Claim language is viewed not in a vacuum, but in light of the teachings of the prior art and of the application disclosure as it would be interpreted by one possessing the ordinary level of skill in the art. ***In re Johnson***, 558 F.2d 1008, 194 USPQ 187 (CCPA 1977); ***In re Moore***, 439 F.2d 1232, 169 USPQ 236 (CCPA 1971).

A decision on whether a claim is invalid under this section of the statute requires a determination of whether those skilled in the art would understand what is claimed when the claim is read in light of the specification, ***Seattle Box Co. v Industrial Crating & Packing***, 731 F.2d 381, 385, 221 U.S.P.Q. 568, 574 (Fed. Cir. 1984).

In determining definiteness, no claim may be read apart from and independent from the disclosure on which it is based. ***In re Cohn***, 169 U.S.P.Q. 95, 98 (CCPA 1971); ***In re Kroekel***, 183 U.S.P.Q. 610, 612 (CCPA 1974):

> ... claims are not to be considered in a vacuum, "but always in light of the teachings of the prior art and the particular application disclosure as it would be viewed by one possessing the ordinary level of skill in the pertinent art." When considered in light of the prior art and the specification, claims otherwise indefinite may be found reasonably definite.

The Examiner's problem concerning clarity of the above-identified recitations results from the fact that the Examiner is reading the claims in a vacuum and not in light of the specification. Paragraphs [0068], [0071] to [0074] and [0088] of the present application describes:

> **[0068]** When matching information exists, the situation comparing section 4 sends the operation information stored as the pair to the situation information in the situation and operation storage section 3 to the operation adapting section 6 (shown in Fig. 1). ***When no matching information has been found***, the processing ends. ***The operation adapting section 6 determines whether or not to adapt the operation information delivered from the situation comparing section 4 to the situation information on the basis of the information in the situation hierarchy storage section 5*** (shown in Fig. 1) (step S3). If it is determined that the adaptation is unnecessary, the operation information is sent to the presentation selecting section 7 (shown in Fig. 1) without being subjected to any processing. ***When it is determined that the adaptation is necessary, the operation adapting section 6 sends the operation information to the presentation selecting section 7 after performing the***

operation adapting processing (step S5). An operation adapting processing method will be described later.

[0071] Next, a method by which the situation comparing section 4 searches the situation and operation storage section 3 for an operation of which an associated situation information piece matches the acquired situation information, by comparing the situation information pieces (S2 of Fig. 4) will be described referring to the flow chart of Fig. 5.

[0072] The hierarchical structure of situation information (places) as shown in Fig. 2 is stored in the situation hierarchy storage section 5 (shown in Fig. 1). It is assumed that situation information of being located at A station has been acquired by the situation acquiring section 1.

[0073] First, a variable i representing a hierarchical level is initialized (step S11). Next, the value of the variable i is incremented by one (step S12) and child nodes having a parent in common with the A station, which is ranked i levels higher as viewed from the A station, are examined as to whether they match some situation information stored in the situation and operation storage section 3 (step S13). In the example of Fig. 2, it is to be examined whether the B station is stored in the situation and operation storage section 3.

[0074] If there is a matching node (step S14), it is determined that a usable operation exists (step S15), and the processing ends. If there is no matching node, it is determined whether or not the parent ranked i levels higher is a root (step S16). It is determined that no usable operation exists if the parent is a root (step S17), and the processing ends. If the parent is not a root, the program flow returns to step S12.

[0088] As described above, by storing in the form of a hierarchical structure and utilizing the situation information about the place, time and so on, it becomes possible to output information adapted to the situation. As a result, advantageously, chances to be able to take an appropriate response to the situation information are increased so that a user, who tends to perform a routine procedure under similar situations, can execute a desired procedure through a simple procedure without carrying out a plurality of troublesome operations.

It is submitted that when the claim language is read in light of the specification, and the above-identified paragraphs in particular, an artisan would readily understand the metes and bounds of the claimed invention. Thus, the criticism of the claims is urged to be directed to breadth of scope and not indefiniteness. As such, the rejection improperly attempts to limit the scope of the claims by requiring additional limitations under the guise that such limitations are necessary to make the claims definite.

It should be noted also that the disclosure need not recite the claim language in ***haec verba***. ***In re Smith***, 481 F2.d 910, 178 USPQ 620 (CCPA 1973).

In view of the above, the above-identified recitations have support in the originally filed specification. Consequently, claims 1, 3-8 and 10 recite the invention with the degree of precision and particularity required by the statute. Therefore, claims 1, 3-8 and 10 are definite and it is respectfully urged that the rejection under 35 U.S.C. § 112, second paragraph, be withdrawn.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 102 AND § 103

I. Claims 1 and 3-6 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Welling, Jr. et al. (U. S. Patent 6,181,927).

The rejections are respectfully traversed.

In the "Response to Arguments" section of the present Office Action (see page 2), the Examiner contends that Applicant's assertion that

> ...there is no description that the trigger database is formed by storing situation information that has been (previously) acquired via the situation acquiring means nor that the trigger data base further associatively stores operation procedures performed with respect to each situation information that is stored. Furthermore, there is no description in

> Welling, Jr. et al. that of the list of numbers stored in the database are stored in a hierarchical structure. A hierarchical structure requires some sort of tree structure which clearly is not disclosed in Welling, Jr. et al. Finally, there is no description in Welling, Jr. et al. that when a current situation information differs from the stored situation information, then an operation procedure to be executed is adapted to the current situation when, as a result of searching by the searching means, a broader concept of a situation information on the current situation agrees with that of a stored situation information."

refers to claim features not recited in the rejected claims. Frankly, why the Examiner states this is unclear as all the above recitation are based upon recited features. In this regard, the following table is provided regarding claim 1:

> a situation acquiring means for acquiring situation information about a situation in which an operation ***has been performed*** (past tense used); (Examiner states that "configuration signal that defines trigger conditions such as speed, temperature and location via sensor/data input")
>
> a situation and operation storage means ***for storing the situation information*** acquired by the situation acquiring means ***and operation information about the operation performed then in an associated manner***; (Examiner states that "trigger signals are stored in memory 130 as history speed" – Applicant states that "there is no description that the trigger database (trigger signals are stored in memory) is formed by storing situation information that has been (previously) acquired via the situation acquiring means nor that the trigger data base further associatively stores operation procedures (information) performed with respect to each situation information that is stored"
>
> ...
>
> a situation hierarchy storage means for storing at least the situation information acquired by the situation acquiring means in *a hierarchical structure*; (examiner states "list of numbers are stored in the database" – applicant states "there is no description in Welling, Jr. et al. that of the list of numbers stored in the database are stored in a hierarchical structure. A hierarchical structure requires some sort of tree structure which clearly is not disclosed in welling, jr. et al." Wikipedia defies "tree structure" as:
>
> > a tree structure is a way of representing the hierarchical nature of a structure in a graphical form. It is named a "tree structure" because the graph looks a bit like a tree, even

> though the tree is generally shown upside down compared with a real tree; that is to say with the root at the top and the leaves at the bottom.)
>
> ...
>
> an operation adapting means for, when the situation comparing means indicates that **the current situation information does not agree with any of the stored situation information, adapting an operation procedure to be executed by the operation procedure executing means to a current situation when**, as a result of the search by the broader concept searching means, ***a broader concept of a situation information on the current situation agrees with that of a situation information stored*** in the situation and operation storage means (Examiner previously and currently states "execution of a sponsored message if called number/ID is matched with number/ID in the database – Applicant states "Finally, there is no description in Welling, jr. et al. that when a current situation information differs from the stored situation information (does not agree), then an operation procedure to be executed is adapted to the current situation when, as a result of searching by the searching means, ***a broader concept of a situation information on the current situation agrees with that of a stored situation information***").

Similar comparison can be made for independent claim 7.

Thus, each of the words used by Applicant to argue what is not found in Welling Jr. et al. is based upon the claim language. Thus, contrary to the Examiner's assertion, the claimed features (of independent claims 1 and 7) upon which Applicant relies **ARE** recited in the claims.

With regard to the Examiner's analysis of claim 1 with respect to Welling, Jr. et al., The Examiner maintains that the trigger database stores numbers and associated call number, referring to column 4, lines 13-50. However, this is not accurate. Column 4, lines 13+ of Welling, Jr. et al describe that the service application program SCP42 is triggered when one of the stored station IDs in database 50 agrees with the ID that is

present in the call origination information of an originating call. If there is no agreement, no call is made at all.

More specifically, in the context of the service program disclosed in Welling, Jr. et al., when none of the (ID) numbers stored in, for example, database 50 agree with the (ID) number of the originating call, no service program call is ever triggered; i.e., there is never subsequently performed in Welling, Jr. et al. a search of a broader concept of how the (ID) numbers are stored in database 50 since this database does not have a hierarchical structure that would provide such a broader concept regarding storing of the (ID) numbers. Consequently, Welling, Jr. et al. does not adapt triggering the service program to a current situation of having no (ID) number stored in database 50 match the (ID) number of the originating call, as there is no search made of a broader concept for which agreement with can possibly be made.

Thus, independent claim 1 is patentable over Welling, Jr. et al., as are dependent claims 3-6 and their allowance is respectfully solicited.

II. Claim 7 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Lange et al. (U.S. Patent 6,704,564) in view of Welling, Jr. et al.

In the pervious response, independent claim 7 had been amended in a manner similar to independent claim 1.

Lange et al. also fails to disclose the features described above with respect to amended independent claim 1. Lange et al. discloses a telecommunications device receiving and storing a trigger configuration signal from a remote service center. This trigger configuration signal includes a dynamic logic expression defining one or more

conditions that if met, trigger transmission of a message from the telecommunications device to the remote service center. If a comparison of conditions (monitored by the telecommunications device) to stored trigger configuration signals does not yield an agreement, no message is sent to the remote service center; i.e., there is never subsequently performed in Lange et al. a search of a broader concept of how the trigger configuration signals are stored since the database storing the trigger configuration signals does not have a hierarchical structure that would provide such a broader concept regarding storing of the trigger configuration signals. Consequently, Lange et al. does not adapt transmitting a message from the telecommunications device to the remote service center to a situation of having no stored trigger configuration signal match a condition (monitored by the telecommunications device) as there is no search made of a broader concept for which agreement with can possibly be made.

Thus, independent claim 7 is patentable over Lange et al. and Welling, Jr., et al., considered alone or in combination. Therefore, the allowance of independent claim 7 is respectfully solicited.

CONCLUSION

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Edward J. Wise, Reg. No. 34,523 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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